



# Memorandum

**TO:** PLANING COMMISSION

**FROM:** Stephen M. Haase

**SUBJECT:** SEE BELOW

**DATE:** July 17, 2002

Council District: Citywide  
SNI Areas: NA

**SUBJECT: PROPOSED ORDINANCE AMENDING TITLE 20, THE ZONING CODE, PERTAINING TO THE PROVISIONS RELATED TO MASSAGE PARLORS AND THE ASSOCIATED DISTANCE AND SEPARATION REQUIREMENTS**

## **RECOMMENDATION**

Planning staff recommends that the Planning Commission forward to the City Council a recommendation to approve the proposed ordinance amending Title 20, the Zoning Code, of the San Jose Municipal Code pertaining to the provisions related to massage parlors and the associated distance and separation requirements.

## **BACKGROUND**

The City of San Jose is experiencing an increase in the number of "day spas" that wish to locate in many of the City's larger commercial shopping centers. The City's current zoning regulations classify a day spa as a "massage parlor" due to the presence of massage activity. As such, massage parlors have specific regulations governing their location. The regulations are somewhat restrictive in nature and have made it increasingly difficult for massage uses to locate in the City's major commercial areas and malls.

## **ANALYSIS**

### Current Zoning Regulations

The existing zoning regulations include a massage parlor as an adult use and as such have specific location criteria. Currently, a massage parlor is permitted as-of-right in the CG General Commercial district outside of the Downtown Core Area. Adult uses, including massage parlors, are not permitted anywhere in the Downtown Core Area. Additionally, a lot or parcel with a massage parlor cannot locate closer than 200 feet from a residential zoning district and the use itself must maintain a separation of 200 feet from another massage parlor or adult use. There is also a distance requirement of 500 feet from a school, college, or university.

Many of the City's commercial shopping areas are located within close proximity to residential districts. Even the larger regional commercial centers, although they are on sites ranging from 35 to over 100 acres in size, are within 200 feet of a residential district typically located across a major thoroughfare. It is for this reason that many of the day spas, or massage parlors as defined in the Zoning Code, are not able to locate in the City's regional malls or major commercial shopping areas.

The current zoning regulations allow limited massage activity to be conducted as part of a full service beauty salon or barber shop as long as the massage activity does not exceed fifteen percent (15%) of the floor space of the salon. Massage in this case does not constitute a massage parlor but rather an incidental or secondary use of the salon. Recent interest in locating new day spas in San Jose indicate that the massage activity would occupy more than 15% of the floor space and/or not be associated with a full service beauty salon.

#### Proposed Modification to Distance Requirements

There has been a general increase in Silicon Valley in the number of day spas opening up offering a range of treatments including deep tissue massage, body wraps, and aromatherapy. There has also been an interest for such uses to establish in San Jose but due to the current regulations, the City has been unable to accommodate them.

Recognizing the demand for and the benefits of day spas for the residents and visitors of the City, staff is proposing an ordinance that would amend the regulations pertaining to massage parlors such that the distance from a residential district and the separation requirement would not pertain to massage parlors located in large, regional commercial centers. Specifically, staff is proposing to exempt massage parlors from the aforementioned location requirements if the use is located on a commercial site that is 35 acres or greater in size, has a General Plan land use designation of Regional Commercial, and is within a commercial center or area with an aggregate square footage of 250,000 square feet or more. For purposes of this ordinance, staff is proposing to define a commercial site as an area comprising a group of contiguous parcels of land that was or is being developed under a single planning process, such as a single permit or Planned Development Zoning.

According to staff's research, the criteria set forth above would allow massage parlors, or day spas, only in the following commercial centers: Valley Fair Mall, Santana Row, Oakridge Mall, Almaden Plaza, Eastridge Mall, and Westgate Mall. Staff is confident that the management of these commercial centers as well as the high level of activity at the centers would deter potential problems which may arise at an establishment where massage activities are conducted. Planning staff has coordinated with the Police Department on the regulations in the proposed ordinance, and the Police Department has indicated that the proposed ordinance should not result in any public safety or other police concerns.

## **PUBLIC OUTREACH**

On July 23, 2002, Planning staff sponsored an outreach meeting to discuss the proposed ordinance. Invitations were sent both via e-mail and regular mail to mall owners and managers, as well as commercial real estate representatives, and interested residents adjacent to the affected commercial areas. Councilmember Reed also transmitted the meeting invitation via e-mail to approximately 550 constituents. Additional outreach consisted of a mailing to those invited to the meeting informing them of the availability of the staff report and draft ordinance on the Department's WebPage. The public hearing notice was published in the Mercury News on Friday, July 12, 2002.

## **COORDINATION**

Preparation of the proposed ordinance has been coordinated with the Police Department and the City Attorney's Office.

## **CEQA**

The proposed ordinance, PP02-07-181, was found exempt from CEQA per Section 15061(b)(3).

STEPHEN M. HAASE, DIRECTOR  
Planning, Building, and Code Enforcement

